



Internal Revenue Service Criminal Investigation

## Tax Fraud Alert

# Employment Tax Enforcement

[www.irs.gov](http://www.irs.gov)

Overview

IRS Keyword: Fraud

Fiscal Year 2004

[Text Only](#) .htm

### Employment Tax Requirements

Employers are required by law to withhold employment taxes from their employees. Employment taxes include:

- Federal Income tax withholding
- Social Security and Medicare Taxes

The federal income tax is a "pay as you go tax." You must pay the tax as you earn or receive income during the year. For most employees this takes the form of income taxes withheld from their pay. Self-employed persons are also required to make estimated tax payments during the year. The pay as you go system was designed to ensure that taxpayers meet their tax obligations timely.

Social Security and Medicare taxes pay for benefits workers and their families receive under the Federal Insurance Contributions Act (FICA). Social security taxes pay for benefits under the old age, survivors, and disability insurance part of FICA. Medicare taxes pay for hospital benefits. Each employee contributes part of these taxes and the employer pays a matching amount. Self-employed taxpayers must also pay social security and Medicare taxes in the form of self-employment taxes. The programs funded by employment taxes provide essential benefits to many citizens. The importance of the programs will continue to grow as more citizens reach retirement age. The Federal Unemployment Tax Act (FUTA) tax, together with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs.

### Employer and Employee Responsibilities

Both employer and employee hold the responsibility for collecting and remitting withholding taxes to the Internal Revenue Service (IRS). For the most part, the employer withholds these taxes on behalf of their employees, but in cases where an employer does not do this, or where an employee is self-employed, it is the responsibility of the employee to collect and pay withholding taxes.

### Employer's Responsibility

Employers must report income and employment taxes withheld from their employees on an Employer's Quarterly Federal Tax Return (Form 941) and deposit these taxes in full to an authorized bank or financial institution pursuant to Federal Tax Deposit Requirements. Employers are also responsible for filing a FUTA return annually, and depositing those taxes.

Employers who do not comply with the employment tax laws may be subject to criminal and civil sanctions for willfully failing to pay employment taxes.

### Employees' Responsibility

Employees, who do not have taxes withheld nor remit them personally, are still liable for these taxes and may not qualify for Social Security, Medicare, or unemployment benefits.

Employees who are concerned that their employer is improperly withholding or failing to withhold federal income and employment taxes should report their employer by contacting the IRS at 1-800-829-1040. In

cases where the employer withheld employment taxes but failed to deposit them, or failed to issue W-2s, the employee should contact the employer to request the W-2. If the employee is unable to secure a W-2 from the employer, the employee should complete and attach Form 4852, Substitute for W-2, to their tax return using the best information available to calculate the wages and the withholding. This information can often be secured from pay stubs.

In addition, if the employer refuses to withhold employment taxes from these wages and the IRS is unable to collect the employment taxes from the employer, the employee still has the responsibility to pay income tax and is ultimately responsible for his/her share of the FICA tax.

### **Evasion of Employment Taxes Carries a Price**

Evading employment taxes can have serious consequences for employers and the employees. Employers may be subject to criminal and civil sanctions for willfully failing to pay employment taxes. Employees suffer because they may not qualify for social security, Medicare, or unemployment benefits when employers do not report or pay employment and unemployment taxes. Consequently, taxes withheld and paid by compliant employers are used to pay the refunds and social security benefits of employees whose employers did not pay the withheld taxes.

### **Employment Tax Evasion Schemes**

Employment tax evasion schemes can take a variety of forms. Some of the more prevalent methods of evasion include pyramiding, employee leasing, paying employees in cash, filing false payroll tax returns or failing to file payroll tax returns.

#### **Pyramiding**

"Pyramiding" of employment taxes is a fraudulent practice where a business withholds taxes from its employees but intentionally fails to remit them to the IRS. Businesses involved in pyramiding frequently file for bankruptcy to discharge the liabilities accrued and then start a new business under a different name and begin a new scheme.

#### **Employment Leasing**

Employee leasing is another legal business practice, which is sometimes subject to abuse. Employee leasing is the practice of contracting with outside businesses to handle all administrative, personnel, and payroll concerns for employees. In some instances, employee-leasing companies fail to pay over to the IRS any portion of the collected employment taxes. These taxes are often spent by the owners on business or personal expenses. Often the company dissolves, leaving millions in employment taxes unpaid.

#### **Paying Employees in Cash**

Paying employees in whole or partially in cash is a common method of evading income and employment taxes resulting in lost tax revenue to the government and the loss or reduction of future social security or Medicare benefits for the employee.

#### **Filing False Payroll Tax Returns or Failing to File Payroll Tax Returns**

Preparing false payroll tax returns understating the amount of wages on which taxes are owed, or failing to file employment tax returns are methods commonly used to evade employment taxes.

[IR-2004-47](#), titled "IRS Warns Businesses, Individuals to Watch for Questionable Employment Tax Practices."

## Statistical Data

### How to Interpret Criminal Investigation Data

Since actions on a specific investigation may cross fiscal years, the data shown in cases initiated may not always represent the same universe of cases shown in other actions within the same fiscal year.

	FY 2004	FY 2003	FY 2002
Investigations Initiated	113	104	92
Prosecution Recommendations	97	66	56
Indictments/Informations	71	44	55
Sentenced	51	45	41
Incarceration Rate*	86.3%	75.6%	78.9%
Average Months to Serve	18	20	15

\*Incarceration may include prison time, home confinement, electronic monitoring, or a combination thereof.

### Examples of Employment Tax Investigations

The following examples of fraud investigations are excerpts from public record documents on file in the court records in the judicial district in which the cases were prosecuted.

#### Tax Evasion Defendant Sentenced to 15-Month Prison Term

On August 20, 2004 in Miami, FL, Laurie Gregoriou was sentenced to 15 months in prison, followed by two years' supervised release and ordered to pay \$421,514 in restitution to the IRS after pleading guilty to conspiring against the IRS. Co-defendant, John Gregoriou, her husband, is awaiting sentencing, having also pleaded guilty to conspiring against the IRS and tax evasion. Gregoriou Publishing, Inc. (GPI), a company that published magazines listing foreclosures, failed to pay over to the IRS more than \$200,000 in taxes withheld from its employees. The tax amount was based on approximately \$1.1 million in income from approximately 100 employees between April 1992, and December 1993. When a company fails to pay over withholding taxes, the person responsible for making the payments is subject to a "Trust Fund Recovery Penalty" equal to the amount of the withheld taxes, plus interest. John Gregoriou, the sole shareholder and President of GPI, was the person who signed off on the company's quarterly tax returns and deemed by the IRS as subject to the "Trust Fund Recovery Penalty." As of the date of the Indictment, the total owed by John Gregoriou on this debt was approximately \$420,000. The defendants conspired to evade payment of this debt by, among other things, placing John Gregoriou's assets, income, and businesses in nominee names, including Laurie Gregoriou's name and the names of both of their parents.

#### Accountant Sentenced to 42 Months in Prison

On July 26, 2004, in Detroit, MI, Peter W. Tietenberg was sentenced to 42 months imprisonment, followed by three years supervised release and restitution of over \$761,000 paid to his clients. According to court records, from 1998 through 2001, Tietenberg, an accountant, operated Business Financial Consultants, which provided accounting and tax services. During this time period, Tietenberg's clients would submit information so that employee withholdings, social security, and medicare taxes could be calculated. After determining the amount of taxes due, Tietenberg would transmit payroll register forms via facsimile, indicating the clients' taxes due and owing. Tietenberg directed his clients to write checks,

payable to Business Financial Consultants, so that he could make payment to the Internal Revenue Service on their behalf. Instead of making the required payments to the IRS, Tietenberg converted the funds to his own use, which totaled over \$761,000. From 1998 through 2001, Tietenberg also failed to file his own personal tax returns, which included the failure to report over \$390,000 in gross income on his 2000 federal tax return.

### **President of Construction Company Sentenced**

On June 24, 2004, in Billings, Montana, Ron Omo, president of Big O Construction, Inc., was sentenced to 2 years probation and ordered to pay restitution of \$21,224. In addition, Omo was fined \$10,000 and the Big O Corporation was fined \$40,000. Omo pleaded guilty on February 5, 2004, to charges of disclosing false information on IRS Form 1096, Annual Summary of Information Returns, by not including IRS Form 1099, Miscellaneous Income, evidencing income received by persons driving vehicles for the benefit of Omo and Big O Construction.

Omo established a payment system for 36 truck drivers employed by Big O Construction, whereby the drivers submitted "driving slips" to bill for driving services and other miscellaneous work provided to the company. Omo and Big O Construction paid the drivers based upon the driving slips instead of time cards. Under this system, no benefits, unemployment insurance or other employment taxes were paid in connection with the driving slip payments. No year end summaries "Form 1099's" were issued to the 36 drivers with respect to the work accounted for by "driving slips." By not issuing year end summaries, Omo and Big O Construction assisted the drivers in their non reporting of income when the drivers filed their individual tax returns. The practice of paying drivers through the use of drivers slips, failing to report the payments to the IRS, and the drivers failing to include the payments on their individual income tax returns, resulted in an aggregate federal income tax loss totaling \$21,224.

### **Former Franklin Businessman Sentenced for Tax Offenses, Reports U.S. Attorney**

On June 14, 2004, in Boston, MA, Michael Schlevenick was sentenced to 15 months in prison to be followed by 2 years of supervised release. Schlevenick pleaded guilty on March 10, 2004 to a fourteen-count Indictment charging him with failure to account for, and pay, withholding taxes, and failure to file individual returns. Schlevenick, a former Franklin business owner failed to account for and pay over to the Internal Revenue Service more than \$175,000 in federal income, social security and medicare taxes that he withheld from the paychecks of his employees during the years 1997 to 1999. He was also sentenced for having failed to file individual income tax returns despite earning more than \$500,000 in gross income over the same time period.

### **Nebraska Tax Cheat Sentenced to Prison - Manager of Popular "Barry's Bar and Grill" Failed to Pay Employment Taxes**

On May 21, 2004, in Omaha, NE, Michael Dane Webb was sentenced to serve five months in prison, followed by five months of home detention. Thereafter, Webb will be under court supervision for an additional three years. On February 27, 2004, Webb pled guilty to a felony charge of willfully failing to account for and pay over employment taxes. Webb admitted in his plea agreement that he conducted business through Barry Good, Inc., doing business as Barry's Bar and Grill in Lincoln, Nebraska. He also admitted he had withheld from his employees' wages, Social Security, Medicare, and income taxes, but did not report, deposit or pay over those withholdings during 1996, 1997 and 1998. The government also alleged that Webb had conducted the same type of scheme at another bar, Barry's West, located in Scottsbluff, Nebraska. Webb admitted he had between 60 and 70 employees during those years. His three-year scheme allowed him to accumulate from their wages approximately \$120,000 that he was required to pay to the IRS on behalf of his employees. Instead, he kept it for his own use.

### **Owner of Restoration Companies Sentenced in Employment Tax Evasion Case**

On May 21, 2004, in Houston, TX, Donald Lee Husk, owner of several restoration companies, was sentenced to 15 months in prison followed by one year supervised release, and order to pay over \$283,000 in restitution. According to the indictment, Husk failed to pay over to the IRS in excess of

\$260,000 in employment taxes that he had withheld from employees of four businesses he owned and operated. Those businesses were United Dynamics, Inc., Global Restoration, Inc., Fargo Construction, Inc., and Global Restoration of Texas, Inc. The indictment further alleged that Husk engaged in a series of acts to conceal his ownership of a Houston company, Greenwood USA, Inc., for the IRS, including signing, under penalties of perjury, a false document relied on by the IRS in an attempt to collect unpaid employment taxes.

### **Businessman Sentenced to Seven Years in Prison**

On April 30, 2004, in Dallas, Texas, Richard M. Simkanin, former owner of Arrow Custom Plastics, was sentenced to seven years in prison and ordered to pay over \$300,000 in restitution. Simkanin was convicted on January 29, 2004, on 29 counts of various tax violations. According to evidence presented in court, Simkanin refused to withhold taxes from his employees' paychecks despite warnings from Simkanin's bookkeeper and two members of an accounting firm who told Simkanin it was illegal to refuse to collect employment taxes. By not withholding taxes during the period 2000 through 2002, Simkanin was able to retain over \$175,000 in taxes lawfully due to the IRS. Testimony at trial indicated Simkanin also filed a \$235,000 false claim for a refund in taxes already collected for 1997 through 1999.

### **Minneapolis Business Owner, 2 Managers Sentenced**

On April 29, 2004, in Minneapolis, MN, the owner of two Twin Cities construction service companies, one of his sons, and a project manager were sentenced for tax fraud, and mail fraud. Douglas G. Radtke was sentenced to 36 months in prison and ordered to pay a \$20,114 criminal fine after being convicted of one count of conspiracy, seven counts of failure to collect and pay tax, and two counts of mail fraud. Scott Radtke was sentenced to 24 months in prison after being convicted of conspiracy and three counts of mail fraud. Michael T. Donohoe was sentenced to 18 months in prison for conspiracy, filing a false tax return, and three counts of mail fraud. All three were also ordered to jointly pay restitution in the amount of \$132,012 to Wilson McShane Corporation and \$47,873 to Berkley Risk Administrator's Company.

From December 1995 to at least January 2000, the defendants engaged in a fraudulent payroll, tax and compensation scheme. The defendants arranged for employees to work in exchange for payments in the form of "cash checks" which were not subject to withholding taxes or union negotiated fringe benefits. In an attempt to avoid IRS reporting requirements which are triggered by any cash payment greater than \$600, the defendants arranged for payments to employees of up to \$599.99 under their Social Security Number, and then required employees to supply names and Social Security Numbers of relatives and friends to serve as nominees for the issuance of additional "cash checks." More than 500 "cash checks" in the sum of approximately \$175,000 were issued during the course of the conspiracy. In an attempt to conceal the conspiracy, Galston created, signed and submitted fraudulent IRS Employer's Quarterly Tax Returns and Donohoe filed false U.S. Individual Income Tax Returns.

### **Man Who Failed to Pay Employment Taxes on Over \$3.1 Million in Cash Wages Sentenced to Prison**

On April 26, 2004, in Los Angeles, CA, Vernon Morris Marshall, who owned and operated a drywall business called Vern Marshall Drywall, Inc., was sentenced to 27 months in prison and ordered to pay \$471,690 in restitution on conspiracy and tax fraud charges. Marshall admitted that he and Faith Virginia Krug, his bookkeeper/office manager paid cash wages to employees to avoid paying approximately \$470,000 in employment taxes to the IRS. Marshall also admitted that he and his bookkeeper used financial structuring to avoid detection of the underreported cash wages paid to the employees. Krug pleaded guilty in October to conspiracy and admitted that at the direction of Marshall, she kept two sets of books; one reflected the true income and expenses of the company, and a second set reflecting only the income and expenses that were reported to the IRS. Krug was sentenced to home detention for her role in the scheme.

## **Two Men Sentenced after Pleading Guilty to Employment Tax Fraud**

On April 22, 2004, in Newark, NJ, Christopher T. Bruton and Leon B. Badick were each sentenced to 20 months in prison, followed by 36 months probation and fined \$5,000. The sentence resulted from a November 14, 2004, guilty plea to one count of conspiring to commit tax evasion concerning their operation of Company B's, a bar restaurant formerly located in Ramsey, NJ and Orangeburg, NY. Both Bruton and Badick admitted that between 1993 and 2000, they devised a scheme to underreport approximately \$2,792,772 in wages paid to employees in order to evade approximately \$477,407 in payroll taxes. In addition, to conceal the employment tax scheme, Bruton and Badick underreported approximately \$358,397 in sales taxes collected from restaurant patrons on the behalf of the states of NY and NJ. This scheme resulted in a total tax loss of approximately \$835,800.

## **Owner of Painting Business Underreported Over \$79,000 in Employees' Wages**

On February 23, 2004, in Los Angeles, CA, Sook Hee Park, who operates Y G Maintenance, a painting business, was sentenced to 3 years probation of which 6 months will be in a home detention program. In addition, Park was ordered to pay a special assessment of \$100 and a fine of \$2,000. Park was also ordered to file truthful tax returns and pay any taxes owed. As a special condition of the sentence, Park must publish, and pay for the publication of, an advertisement which addresses her responsibility for the her tax crimes. On October 27, 2003, Sook Hee Park pleaded guilty to filing a false tax return and admitted to underreporting over \$79,000 in wages on employment tax forms filed with the IRS in 1997. She paid some employees in the form of cash resulting in Park not withholding and paying over to the IRS the employment taxes due on the unreported wages.

Park also admitted that she deposited a portion of customers' checks and cashed the other portion. She maintained records of both the deposited checks and the cashed checks, but only provided to her accountant the records of income deposited into the bank account. The record of cashed checks was not provided to her accountant, which was not reported on the tax returns. According to the plea agreement, Park failed to report \$70,814 in additional income in 1997.

## **Business Owner Sentenced for Filing False Return**

On February 20, 2004, in Kansas City, MO, Johnny D. Walker was sentenced to one year and one day in prison without parole after pleading guilty to filing a false income tax return for the 2001 calendar year. Walker admitted the he reported gross receipts of \$298,634 for the tax year ending December 31, 2001, when his true gross receipts were approximately \$359,669. Walker's actions resulted in an unreported income tax of \$23,261 and unreported self-employment tax of \$14,719.

## **Financial Planning Service Owner Sentenced to Six Years for Tax Charges**

On December 17, 2003, Mark W. May, in Dayton, Ohio, founder, president and owner of Maranatha Financial Group, Inc., a defunct fee-only financial planning service was sentenced to six years in prison and order to pay \$728,090 in restitution to the IRS. May was convicted on September 26, 2003 of six counts of tax evasion and failure to remit payroll taxes to the IRS. Any involvement with the financial service industry will be considered a violation of his three years of supervised release which must be follow his prison sentence.

## **Travel Advances and Bonuses Used to Disguise Salaries**

On October 21, 2003, in Columbia, SC, Charles S. Porter, III, was sentenced to three years probation and ordered to pay a \$100 assessment fee, \$10,000 fine, and \$15,240 in restitution. On April 3, 2002, Porter and his corporation, Southern Architectural Woodwork, Inc., pleaded guilty to income tax evasion. During the years 1995-1997, Porter, as the president and sole shareholder of Southern Architectural Woodwork, used various schemes to evade paying employment taxes, primarily social security and Medicaid withholdings on its employees. One scheme reduced employees' salaries and replaced the compensation with "per diem" or "travel advance" payments, so no taxes would be withheld or paid.

Another scheme involved disguising salaries as "bonuses" and providing items to employees such as computers and home repairs instead of paying salaries. The total employment tax loss was over \$61,000.

### **Cedar Falls Man Sentenced to 30 Months for Million Dollar Tax and Embezzlement Scheme**

On October 22, 2003, in Cedar Rapids, IA, Rodney V. Foster was sentenced to 30 months in prison, followed by three years of supervised release and ordered to pay \$750,000 in restitution after pleading guilty to failure to account for and pay over withholding and FICA taxes, theft and embezzlement from an Employee Benefit Plan. Foster admitted that he deducted and collected federal income taxes and FICA taxes from employee wages in the sum of \$1,046,258 and then willfully failed to pay these taxes to the IRS. Foster also admitted to converting \$26,776 of the funds collected for his employees' pension benefit plan for his own use.

### **Sa'ad El-Amin Sentenced to 37 Months in Prison**

On October 17, 2003, in Richmond, VA, Sa'ad El-Amin was sentenced to 37 months in prison for conspiracy to defraud the United States by failing to file income tax returns and evade taxes. El-Amin and Beverly Crawford, his wife, were licensed attorneys and failed to pay the vast majority of the federal taxes assessed against them. As a result of their failure to pay these taxes, the IRS filed assessments and liens against El-Amin and Crawford totaling more than \$700,000 for unpaid individual income taxes, corporate income taxes, employment taxes, penalties and interest. El-Amin was held accountable for a tax loss of \$710,451.

### **Owner of Temporary Personnel Agency Sentenced for Tax Fraud**

On October 10, 2003, in Kansas City, Missouri, Dawn Marie Goszewski was sentenced to 21 months and ordered to cooperate with the IRS to pay all outstanding amounts owed including \$281,584 in personal income taxes and \$279,027 in employment taxes. Goszewski was the owner, president, and operator of Culinary Resources, a staffing service for temporary personnel in the food and hospitality industry. On July 10, 2003, Goszewski pleaded guilty to tax evasion charges. Goszewski admitted that for the quarters ending September 30, 1999, through March 31, 2001, with the exception of the quarter ending March 31, 2000, she collected \$279,027 from her employees for Social Security taxes, Medicare taxes, and federal income taxes. She did not turn that money over to the IRS.

For more summaries, visit [www.irs.gov](http://www.irs.gov) and enter Keyword: Fraud.

### **Where Do You Report Suspected Tax Fraud Activity?**

If you suspect tax fraud or know of an abusive return preparer, you should report this activity to your nearest Internal revenue service office. This information can be communicated by phone or in writing to your local IRS office. You can contact the IRS by phone at 1-800-829-0433.